27th Congress, 2d Session. Rep. No. 937. Ho. of Reps.

JOINT RULE RELATIVE TO PRIVATE CLAIMS.

July 21, 1842.

Mr. Cowen, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which was referred the resolution of the Senate of the 29th of June, 1842, for the adoption of an additional joint rule of the two Houses of Congress relative to claims against the United States, report:

That the committee have considered the subject, and proceed to submit their views and conclusion. The rule which it is proposed to adopt as one of the joint rules of the two Houses of Congress, is for the regulation of proceedings in reference to a particular class of petitioners or claimants. The first inquiry that suggested itself to the committee was, whether it infringed or abridged the right of petition? Regarding this as an inherent and inalienable right, the committee would not willingly sanction any rule, law, or resolution which would tend in the least to impair it.

The right of the people to petition the Legislative Department of their Government, though recognised by our Constitution, is not dependent upon that instrument for its existence, neither is it confined to republics or to any particular form of human government. It exists as well in monarchies as in those Governments where the people choose those by whom their laws are made. The civilized world are agreed in the opinion that all Governments, whether claiming their powers from the people, or by inheritance and of divine right, are instituted for the benefit of the governed. This admitted, and the right of those for whose benefit laws are made to communicate their opinions and wishes to the legislators upon all subjects within the scope of the legislative powers, follows as a necessary consequence. The trustee, from whatever source he has derived his powers, cannot, without a flagrant breach of duty, refuse to hear those for whom he holds his trust. In a republic, where the law-makers are chosen by, and regarded as the representatives of, the people, the absurdity of denying the existence of this right is more palpable than in a monarchy. The representative, in fact, derives his powers from the people, and, by express stipulation, those powers are to be exercised with respectful reference to the opinions and interests of the constituency.

Will this rule, if adopted, impair the right of petition? It does not prohibit the reception or the consideration of petitions. It does not deny the right of claimants to be heard. It relates exclusively to the subject

of rehearings, and assumes nothing more than a right to prescribe rules by which petitioners for rehearing upon private claims shall be admitted to a hearing. This rule adopted, and the class of claimants to whom it relates may be heard, but only in conformity with this rule.

We are not now considering the question whether this is the best rule that could be adopted in relation to claimants whose claims have been once rejected by Congress, but whether it is competent for Congress to adopt it. It has been found necessary, by all legislative bodies, to prescribe rules as to the time and manner of receiving and considering petitions. We may refuse to receive them unless they are in writing. We may refuse to receive them except upon particular days, and then except in such order as may be prescribed. Such rules are indispensably necessary, and do not deny the right, nor the exercise of the right, but only prescribe rules for its exercise.

This rule requires that petitions, in certain cases, shall not be received, unless the petitioner brings himself within the rule. It applies to petitions which have been received, considered, and answered. The right of the petitioner will have been respected and granted. What more can he of right demand? A rehearing. And may not Congress require of him that, to obtain such rehearing, he shall show some cause for it?

This view is sustained by the practice of courts of justice in all ages of the world. The judgment of a court upon a question of which it has jurisdiction is conclusive upon the parties litigant, unless upon appeal or writ of error obtained in conformity with legal rules. The right of the citizen to a redress of injuries in courts of justice is as perfect, as absolute as his right to petition Congress. This right may not have been derived from the same source as that to petition the representative, but it is not, therefore, less sacred, or its abridgment less clearly a moral and political wrong.

Parties in court are requred to submit to certain forms of proceeding. They are liable to be turned out of court for a defective precipe, or writ, or pleading. If they have been heard and their cases decided they cannot be again heard, except upon terms such as may be deemed just and proper by the Legislature; and in all cases, in most if not all civilized countries, there are courts of the last resort, the judgments of which are irreversible and conclusive. This has been found necessary to enable the judicial tribunals to dispose of cases and quiet the rights of the people. It is deemed indispensable to good government that there should be an end to litigation.

It may not be equally necessary to put an end to the representation to Congress of claims against the United States as it is to put an end to private litigation, but if the right to do so exists in the one case, it is not perceived why it does not in the other.

But the proposition is not that claimants shall not have a rehearing, but only that they shall not have it except upon affidavit of newly-discovered evidence, or assignment of errors in the former decision of Congress. It seems to the committee that there is nothing objectionable in such a rule; that it is not only no abridgment of right, but that it imposes no unreasonable burden upon claimants. Why should they desire a rehearing without additional evidence or some error in the former decision?

All those who have considered the subject must be aware of the evils

growing out of the oft-repeated applications to Congress by the same claimants. It not only imposes duties upon Congress which greatly retard the public business, but it subjects the Government to heavy expense. So much time is occupied in the reconsideration of rejected claims, that new and often meritorious claims fail to receive consideration.

The committee are clearly of opinion that the rule will contribute to the advancement of business and abridge no right, and that it will not subject claimants to any inequitable burdens.